

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

EDWARD DIAL,	:	PRISONER CIVIL RIGHTS
Plaintiff,	:	42 U.S.C. § 1983
	:	
v.	:	
	:	
DEPUTY DAVIS (RT),	:	CIVIL ACTION NO.
GWINNETT COUNTY SHERIFF	:	1:12-CV-2805-WSD-JFK
DEPARTMENT,	:	
Defendants.	:	

**MAGISTRATE JUDGE’S FINAL  
REPORT AND RECOMMENDATION**


By Order entered on November 9, 2012, the undersigned for the second time ordered Plaintiff, within thirty days, to pay the full \$350.00 filing fee or submit an *in forma pauperis* application. (Doc. No. 4). The undersigned advised Plaintiff that failure to comply with that directive could result in the dismissal of the action and directed the Clerk to resubmit this action at the expiration of the specified time period. (Id.).

The time period having expired, the matter again is before the Court. As of January 2, 2013, the records of the Clerk of Court indicate that Plaintiff has not submitted the applicable filing fee or a financial affidavit as ordered and has not otherwise responded.

**IT IS RECOMMENDED** that this action be **DISMISSED WITHOUT PREJUDICE**, due to Petitioner's failure to comply with a lawful order of the Court. See LR 41.3 A.(2), NDGa.; see also Heard v. Nix, 170 F. App'x 618, 619 (11th Cir. Feb. 23, 2006) (affirming dismissal under Rule 41.3 and Federal Rule of Civil Procedure 41(b) for failure to comply with district court's order).

The Clerk is **DIRECTED** to terminate the referral to the undersigned.

**IT IS SO RECOMMENDED and DIRECTED**, this 3<sup>rd</sup> day of January, 2013.

  
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JANET F. KING  
UNITED STATES MAGISTRATE JUDGE